

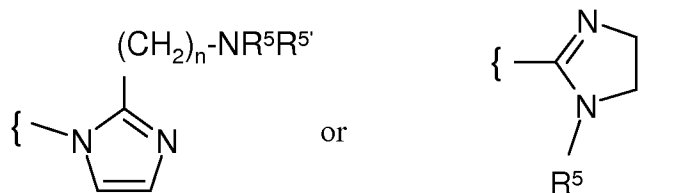
REMARKS

The only issues outstanding in the Office Action mailed May 30, 2008, are the rejections under the doctrine of obviousness-type double patenting, and 35 U.S.C. 112. Reconsideration of these issues, in view of the following discussion, is respectfully requested. The typographical error in claim 1 noted in the advisory has been remedied.

Double Patenting

Claims 1, 2, 13 and 16-21 have been rejected under the doctrine of obviousness-type double patenting over claims 1, 2 and 9-16 of co-pending U.S. application serial no. 10/594,024. Reconsideration of this rejection is respectfully requested.

R⁴ in the co-pending application is



Inasmuch as R³ in the present claims is 2-oxopiperidin-1-yl, 2-oxopyrrolidin-1-yl, 2-oxo-1*H*-pyridin-1-yl, 3-oxomorpholin-4-yl, 4-oxo-1*H*-pyridin-1-yl, 2-oxo-1*H*-pyrazin-1-yl, 2-oxoimidazolidin-1-yl, 2-iminopiperidin-1-yl, 2-iminopyrrolidin-1-yl, 3-iminomorpholin-4-yl, 2-iminoimidazolidin-1-yl, 2-imino-1*H*-pyrazin-1-yl, 2,6-dioxopiperidin-1-yl, 2-oxopiperazin-1-yl, 2,6-dioxopiperazin-1-yl, 2,5-dioxopyrrolidin-1-yl, 2-oxo-1,3-oxazolidin-3-yl, 3-oxo-2*H*-pyridazin-2-yl, 2-caprolactam-1-yl (= 2-oxoazepan-1-yl), 2-azabicyclo[2.2.2]octan-3-on-2-yl, 5,6-dihydro-1*H*-pyrimidin-2-oxo-1-yl, 2-oxo-1,3-oxazinan-3-yl, 4*H*-1,4-oxazin-4-yl, furyl, thienyl, pyrrolyl, imidazolyl, pyrazolyl, oxazolyl, isoxazolyl, thiazolyl, isothiazolyl, pyridyl, pyrimidinyl, triazolyl, tetrazolyl, oxadiazolyl, thiadiazolyl, pyridazinyl or pyrazinyl, optionally mono- or disubstituted by Hal, OA, OH, COOA and/or A, or

CONR⁴R⁵.

It is submitted that the possible substitutions in the co-pending application do not suggest the present claims. Note that claim 4, which has been incorporated into claim 1 herein, was not subject to this rejection. Accordingly, withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. 112

Claims 18 and 20 remain rejected under 35 U.S.C. 112, first paragraph. It is argued that utilities such as migraine, tinnitus, tumor, tumor diseases and/or tumor metastasis are not enabled. Applicants stand by their previous remarks concerning the enablement of these species. However, in order to expedite prosecution, claim 18 has been limited to those utilities disclosed at pages 5 and 9 of the present Office Action as being enabled. Claim 20, which has become superfluous, has been cancelled. Moreover, the objected-to term “further medicament active ingredient” has been deleted from Claim 18. In view of the “comprising” language of the claim, it is clear that it includes administration of medically active agents in addition to the compounds of the invention. Several such agents listed in the specification have been recited in Claim 22. Withdrawal of this rejection is also respectfully requested.

The claims of the application are submitted to be in condition for allowance. However, should the Examiner have any questions or comments, she is cordially invited to telephone the undersigned at the number below.

Respectfully submitted,

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